REMARKS

Claims 169-175 are subject to an election requirement. Applicants are required to elect a single species for prosecution purposes. *See* 35 U.S.C. § 121. Specifically, the election of the following two species has been required:

1) For claims 169-172, "a single nicotine-pseudomonas exotoxin conjugate specified as to atom and bond." (Page 2 of the Election Requirement); and

2) For claims 173-175, "a single adjuvant selected from the group consisting of: R1B1, aluminum hydroxide and aluminum phosphate." (Page 2 of the Election Requirement).

Applicants respectfully **traverse** the election of species requirement. Applicants' traversal is based on the fact that at least one claim which fully encompasses the scope of claims 169-175 has previously been examined and deemed to be free of prior art rejections.[1] Specifically, claim 125 as presented in the August 26, 2009 Amendment was examined with the October 9, 2009 Office Action (*see* page 2 of the Office Action acknowledging receipt of the amendment to claim 125).

Claim 125 as presented on August 26, 2009 and examined on October 9, 2009 recited a pharmaceutical composition comprising a hapten-carrier conjugate:

where the hapten is, *inter alia*, nicotine;

where the carrier is pseudomonas exotoxin;

where the hapten and carrier are linked by a branch which is, *inter alia*, CJ 7.1, CJ 1, CJ 3, or CJ 11;

where n is independently an integer;

where Y is, *inter alia*, NH; and

where Q is, *inter alia*, the carrier or another "branch" identified by its "CJ" reference number.

Claim 125 as presented on August 26, 2009 thus completely encompasses currently pending claims 169-175. Additionally, claim 125 as presented on August 26, 2009 was found to be free of prior art rejections on October 9, 2009. The only rejections of claim 125 that were presented in the October 9, 2009 Office Action were provisional or non-provisional obviousness-type double patenting rejections (*see* pages 8-9 and 11-12 of the October 9, 2009

[1] By prior art rejections, applicants mean rejections under 35 U.S.C. §§ 102 and 103.

Office Action), which Examiner Gross had indicated were overcome by the amendments presented on January 20, 2010. (*See* page 4 of the January 20, 2010 Amendment). Additionally, regarding the second election requirement specifically, claim 132 as presented on August 26, 2009 (which depended directly from claim 125 as then presented) recited that the pharmaceutical compositions further comprises an adjuvant—claim 132 too was examined and deemed to be free of prior art rejections.

Accordingly, because at least one claim of scope broader than pending claims 169-175 has previously been fully examined (and deemed free of prior art rejections), applicants assert that searching the genera identified in the Election Requirement would not constitute an additional examination and search burden. Applicants respectfully traverse the election requirement

Applicants understand that a complete reply to the Election Requirement must include an election. In the event that the Election Requirement is not withdrawn, applicants are prepared to make an election of species telephonically. Accordingly, the Examiner is invited to contact the undersigned should an election of species be deemed necessary, at which point an election will be made orally.

CONCLUSION

Applicants believe the pending claims are in condition for allowance, and thus request favorable and rapid consideration thereof.

The Examiner is invited to contact the undersigned by telephone at her earliest convenience in the event that a telephonic discussion would be using in advancing prosecution of the instant application.

Respectfully submitted,

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/Andrew D. Cohen/ 61,508

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